

## **INITIAL STATEMENT OF REASONS:**

This action amends provisions governing the statewide processing of inmate personal property, and the processing of inmate packages through a statewide vendor process within the California Department of Corrections (Department). This action repeals the changes to the statewide vendor processing of inmate property regulations that were filed with the Office of Administrative Law (OAL) as an emergency operational necessity by the Department and were in temporary effect on January 1, 2004. Furthermore, this action will supersede OAL File No. 03-1211-01 EON, and will amend, delete, and adopt new language that consolidates the statewide vendor process with the statewide processing of inmate personal property.

This action will convert the inmate quarterly package program to a statewide vendor inmate quarterly package program. These provisions are necessary to standardize inmate property practices throughout all of the institutions/facilities. This action will limit the amount and restrict the type of personal property an inmate is allowed to possess, as well as increase the security of the prisons, and protect the safety of the public. Additionally, this action will require all inmate packages sent in to the institutions/facility be purchased through and shipped by departmentally authorized vendors in sealed packages to the inmate. Budget Letter 03-21, Personal Services Reduction Plan requires that the Department implement the statewide vendor program pursuant to the 16 percent reduction plan by converting to a Statewide Vendor Package Program.

This regulation expands the special purchase procedure and allows inmates to obtain personal property via departmentally-approved vendors. Inmate correspondents (outside entities such as inmate family members and friends) will be allowed to send packages to inmates by first ordering items directly from departmentally-approved vendors who will then send the packages to the institutions/facilities. Special purchases include, but are not limited to such items as health care appliances, religious items and correspondence courses. Inmates may acquire these special purchase items through departmentally approved vendors only, either by purchasing items using their inmate funds or by receiving the items from outside entities, otherwise known as correspondents. In addition to special purchases, inmates may acquire authorized personal property packages based upon their work/training incentive group or privilege group. These items, formerly referred to a "quarterly packages," may now be ordered by inmates or their correspondents, and shall be shipped to the inmate's institution/facility by the departmentally approved vendor in a factory sealed container.

The Department will ensure that the vendor process will be fair and equitable to all inmates and their correspondents by allowing competitive pricing by utilizing multiple vendors. Vendors with higher prices or inferior merchandise will lose business to vendors with lower prices or superior merchandise as inmates and their correspondents will make purchases based on a combination of cost and quality. Departmentally approved vendors will also either stock cultural food differences or act as an intermediary in a purchase. Departmentally approved vendors will offer wide varieties of items to ensure that inmates maintain a sense of "personal touch" from their correspondents.

Existing language states that the amount charged an inmate for special purchase items shall include normal taxes and a 10 percent service charge based upon the purchase price. This service charge is to cover the cost of processing the inmate's purchase order, and is deposited in the inmate trust fund. Existing language does not, however, allow inmates to purchase personal property packages (also referred to as quarterly packages); these packages were typically sent in from their correspondents. The proposed regulations allow inmates to purchase personal property packages from a departmentally approved vendor. Additionally, inmate initiated personal property package purchases will include normal taxes and the 10 percent service charge. Special purchases or personal property packages

purchased by correspondents of inmates will not be charged the 10 percent service charge. Furthermore, existing language provides an exception to the 10 percent service charge when the inmate purchases medical appliances, correspondence courses, nonfiction books, and legal materials. The proposed regulations amend this language to include religious items as an exemption.

Current regulations authorize each institution head to limit the amount and type of personal property each inmate is allowed to possess. Additionally, the absence of standardized policies leads to the perception of disparate treatment amongst the inmates at different institutions. However, this current policy makes it difficult to detect contraband during cell searches and expands places in which inmates could conceal contraband, which in turn could compromise security.

These regulations will continue to allow inmates to possess personal property as approved by the Department. However, new standardized prison restrictions on inmate personal property will assist staff in searches of an inmate's cell or dorm for concealment of contraband, drugs and weapons including dangerous materials. This regulation reduces the difficulty and staff time necessary to conduct searches, reduces inmate property claims, and reduces the combustible materials maintained in a cell, thereby decreasing fire concerns.

The Department weighed institutional concerns against the concerns of inmates in order to determine reasonable personal property standards. Reasons requiring the new personal property standards include, but are not limited to: (1) increases staff's ability to detect contraband, drugs, and weapons; (2) reduces the ability for inmates to barter or trade; (3) reduces inmate personal property claims; (4) restricting inmate personal property reduces the possibility of fire; (5) reduces the ability of inmates to intimidate other inmates into relinquishing personal property; and (6) in the interest of security and safety.

This regulation also proposes standards for a uniform statewide processing of personal property regarding inmate handicraft programs, legal and educational materials, health care related property, clothing and toiletry items, food items, appliances and musical instruments. These proposed regulations allow inmates to possess six cubic feet of authorized personal property. However, the Department will allow for legal material, in excess of three cubic feet to be securely stored at the institution/facility.

The Department is requiring the utilization of "clear case" technology as part of inmate personal property standardizations. This regulation anticipates how non-clear case appliances will be disposed of through attrition. The Department will require the purchase of clear-case appliances from approved vendors when ordering new or replacement appliances. Clear-case appliances are being required in the interest of safety and security of the institution/facility, and in order to curtail the introduction or concealment of contraband. This is necessary to allow staff to visibly search appliances without having to open and inspect the appliances, thereby reducing the possibility of damage to the appliance during the search process. This will reduce the Department's liability and reduce inmate personal property claims by allowing a more efficient method of searching personal property by not requiring staff to take the appliances apart and expose small parts thereby reducing accidental breakage and/or damage while searching.

This regulation further requires inmates to use clear personal care items encased in clear containers or tubing when the products become available for purchase. This will aid in the prevention of tampering or the detection of contraband during a cell search and during an emergency response.

There currently exist five basic privilege groups within the Department. Privilege Groups A and B are described as follows:

- Privilege Groups A (Full-time work/training assignment) and B (Half-time work/training assignment) are predominately those inmates with a good behavior history and who are considered model inmates. These privilege groups are the least restricted.

Based on security needs, the requirement to provide a safe work environment for staff and equally safe living environment for inmates, the Department has chosen to be more restrictive with respect to Privilege Group C, and the most restrictive with Privilege Groups D and U, in the manner described as follows:

- Privilege Group C are those inmates that refuse to participate in work or academic programs. These inmates have chosen not to be involved in activities and programs, thereby refusing to be a contributing member of the inmate population. Inmate property for these inmates is being restricted in an effort to bring about compliance with Penal Code Section 2700. Reinforcing positive behavior, having fewer restrictions, rewards those inmates in Privilege Groups A and B who demonstrate that they are willing to program and abide by departmental regulations.
- Privilege Group D are those inmates who are removed from the general population due to disciplinary or administrative reasons while incarcerated. Those inmates who have been involved in disruptive and/or violent behavior will have greater restrictions.
- Privilege Group U are those inmates that are new to the Department and have yet to be identified or classified. Additionally, due to their transient nature, pending processing for placement from a reception center to other institutions, their property is restricted. Upon arrival at their designated institution, the inmate will be assigned to a privilege group.

Those inmates who are in Privilege Groups C and D will not be allowed the same or as many of the items as those inmates who are in Privilege Groups A and B. An inmate's privileges increase as their behavior warrants and as their constructive participation increases. To allow a Privilege Group C inmate to possess the same property as a Privilege Group A inmate defeats the purpose and intent of the Department's Work/Training Incentive Program. Those inmates in the Reception Centers are allowed fewer items of personal property due to lack of space, as they are temporarily housed in the Reception Centers pending transfer to their institution.

The Department must determine that no alternative considered would be more effective in carrying out the purpose of this action or would be as effective and less burdensome to affected private persons than the action proposed.

**The changes to Sections 3044, 3092, 3138, and 3190 made specific in Office of Administrative Law (OAL) File No. 03-1211-01 EON are repealed in this regulation. Additionally, text specific to OAL File No. 03-1211-01 EON is amended to clarify language and is amended into these regulations.**

**Section 3006 initial paragraph is amended** to state that only those personal property items allowed in these regulations may be permitted to be in the possession of inmates. This is necessary to provide for standardization among all the institutions/facilities in the State. This regulation is also necessary to remove the provision of permitting institutions to implement individual local procedures regarding inmate personal property items with the exception of items purchased at the canteen at the individual institution/facility.

**Subsections 3006(a) through 3006(d) are unchanged.**

**Subsections 3044(a) through 3044(c) are unchanged**

**Subsection 3044(d)(1) through 3044(d)(3)(F) are unchanged.**

**Subsection 3044(d)(3)(G) is amended** to change the name of inmate packages from special packages to personal property packages, a more accurate term, and to change the name from special canteen purchases to special purchases. These special purchases are not always purchased through the institution's canteen, but from departmentally-approved vendors, therefore the name change is necessary to accurately reflect what these purchases are. Personal property packages that contain approved personal property, may be purchased by the inmate or received by inmate correspondents via departmentally approved vendors.

**Subsection 3044(d)(3)(H) is deleted** to remove special canteen purchases language from this section that establishes criteria based upon inmate privilege groups. The basic purpose of special purchases has changed, and they are no longer based upon an inmate's privilege group. This deletion should not be construed as a denial to purchase canteen items or as a prohibition of special purchases, but merely as categorizing special purchases in new subsection 3190(h).

**Subsection 3044(e)(1) through (e)(3)(F) is unchanged.**

**Subsection 3044(e)(3)(G) is amended** to change the name of inmate packages from special packages to personal property packages. The name change is necessary to accurately reflect what these packages are. These packages are one of the authorized methods for obtaining approved personal property. This name also differentiates these personal property packages, authorized in Section 3190(d), from special purchases, which are authorized in Section 3190(h). Special canteen purchases changed to special purchases to accurately reflect what these purchases are. The canteen is not necessarily involved.

**Subsection 3044(e)(3)(H) is deleted** to remove special canteen purchases language from this section that establishes criteria based upon inmate privilege group. The basic purpose of special purchases has changed, and they are no longer based upon an inmate's privilege group. This deletion should not be construed as a denial to purchase canteen items or as a prohibition of special purchases, but merely as categorizing special purchases in new subsection 3190(h).

**Subsection 3044(f)(1) through 3044(f)(3)(E) is unchanged.**

**Subsection 3044(f)(3)(F) is amended** to change the name of inmate packages from special packages to personal property packages. The name change is necessary to accurately reflect what these packages are. These packages are one of the authorized methods for obtaining approved personal property. This name also differentiates these personal property packages, defined in Section 3190(d), from special purchases, which are defined in Section 3190(e). Special canteen purchases was changed to special purchases to accurately reflect what these purchases are. The canteen is not necessarily involved.

**Subsection 3044(f)(3)(G) is deleted** to remove special canteen purchases language from this section that establishes criteria based upon inmate privilege group. The basic purpose of special purchases has changed, and they are no longer based upon an inmate's privilege group. This deletion should not be construed as a denial to purchase canteen items or as a prohibition of special purchases, but merely as categorizing special purchases in new subsection 3190(h).

**Subsection 3044(g)(1) through 3044(g)(4)(E) are unchanged.**

**Subsection 3044(g)(4)(F) is amended** to permit an inmate to “acquire” instead of “receive” one personal property package per year exclusive of special purchases. Inmates may now either have personal property packages sent to them via a departmentally approved vendor by their correspondents or they may initiate the purchase via a departmentally-approved vendor. Eligibility to acquire a personal property package commences one year after the date of Privilege Group D assignment. This is an incentive for inmates who are currently in Privilege Group D to demonstrate that if they are willing to correct their behavior, to program and abide by departmental regulations for one year.

**Subsection 3044(g)(4)(G) is relocated to subsection 3190(j)(3).**

**Subsection 3044(h)(1) through (h)(3)(E) is unchanged.**

**Subsection 3044(h)(3)(F) is deleted** to remove special canteen purchases language from this section that establishes criteria based upon inmate privilege group. The basic purpose of special purchases has changed, and they are no longer based upon an inmate’s privilege group. This deletion should not be construed as a denial to purchase canteen items or as a prohibition of special purchases, but merely as categorizing special purchases in new subsection 3190(h).

**Subsection 3044(h)(3)(G) is renumbered to (h)(3)(F) and amended** to change the name of inmate packages from special packages to personal property packages. The name change is necessary to accurately reflect what these packages are. These packages are one of the authorized methods for obtaining approved personal property. This name also differentiates these personal property packages, defined in Section 3190(d), from special purchases, which are defined in Section 3190(e).

**Subsection 3044(i) is unchanged.**

**The Note Section in section 3044 is amended** to add the year “1988” to the case *In re Monigold*, 205, Cal.App.3d 1224 as it was inadvertently left off.

**Section 3092 is relocated to Subchapter 2, Article 9, and renumbered to subsections Section 3190 (h) and (p), respectively.**

**Subsections 3100(a) through (g) are unchanged.**

**Subsection 3100(h) is amended** to include excess handicraft articles and materials within a designated handicraft area as items that may be stored in designated secured storage areas of the facility. The ability to store handicraft projects, tools, and any excess articles and materials is dependant upon available space at the institution/facility. This is necessary because inmates, while working on handicraft projects may accumulate excess articles and materials, and may need to store these items, which due to security reasons and lack of space are not allowed in their individual quarters/living area.

**Subsections 3100(i) through (j) are unchanged.**

**Section 3101 is amended** to establish that inmates assigned to handicraft programs may possess handicraft articles and materials, pursuant to Penal Code 2601 in their quarters/living area; however, the volume shall not exceed the six cubic feet limit set for inmate property. Also, any excess shall be confiscated and disposed of in accordance with Section 3191(c). Language is deleted that allow inmates to store in two footlockers a total of nine cubic feet of handicraft articles and materials. This is necessary due to the lack of available space at the facility/institution, and for safety and security of the institution.



Additionally, language addressing lesser but reasonable volume limits set by the warden was removed for standardization purposes.

**The Note Section in section 3101 is amended** by deleting reference to the Former DP 2202, volume limitations as this is an obsolete reference. The correct authority and reference is adopted specific to the Department's authority in Penal Code (PC) Section 5058 and references cited are PC Sections 2601 and 5054.

**The Heading for Section 3107 is amended** to read Donating Items to the Institution. This is necessary because these regulations will no longer allow inmates to give any of their handicraft items directly to another inmate. The new heading reflects this change.

**Section 3107 is amended** to include handicraft items and articles to the list of items that inmates may donate to the institution for use by other inmates enrolled in approved handicraft programs. Inmates will no longer be allowed to give, donate, or loan handicraft items directly to another inmate, instead the inmates may donate the items to the institution, and will in turn allow other inmates to use the items. This is necessary to ensure that inmates don't use handicraft items to barter or payoff other inmates with the items. Additionally, this gives the supervisor of handicraft programs control over donated items to ensure that the items are utilized properly only by inmates in the handicraft programs. All items donated to the institution shall be recorded by the institution's supervisor of handicraft programs.

**The Note Section in section 3107 is amended** by deleting reference to the Former DP 2202, providing handicraft items as this is an obsolete reference. The correct authority and reference is adopted specific to the Department's authority in Penal Code (PC) Section 5058 and references cited are PC Sections 2601 and 5054.

**Subsections 3138(a) through (c) are unchanged.**

**Subsection 3138(d)(1) is amended** to direct facilities to make available to inmates the procedures for the receipt of packages from their correspondents via departmentally-approved vendors. Institutions/facilities will no longer individually establish procedures for the receipt of packages but will make statewide regulations available to inmates enabling them to provide information to their correspondents. Additionally, all packages sent from the inmate correspondents shall be received from departmentally approved vendors. Departmentally-approved vendor catalogs and order forms will be available in the inmate library, and will be made available to inmate correspondents by the vendors. The use of departmentally-approved vendors will reduce processing costs incurred by institutions, when staff search incoming inmate packages because all packages will be shipped directly from departmentally-approved vendors and all items will be factory sealed. This will allow inmate correspondents a wide variety of products to choose from at fair market value, and will enable staff to quickly search packages ensuring the safety and security of the institutions. The Department will ensure that the vendor process will be fair and equitable to all inmates and their correspondents by allowing competitive pricing by the vendors. Vendors with higher prices or inferior merchandise will lose business to vendors with lower prices or superior merchandise as inmates and their correspondents will make purchases based on a combination of cost and quality. Departmentally-approved vendors will also either stock cultural food differences or act as an intermediary in a purchase. Departmentally approved vendors will offer wide varieties of items to ensure that inmates maintain a sense of "personal touch" from their correspondents. Many of the items available to inmate correspondents will be the same, or very similar, to items available in local department stores, chain stores, and warehouse type stores.

Additionally, this subsection amends language regarding the facility's right to refuse to deliver a package if the inmate is not qualified to receive the package and dispose of the package without the need to hold the package pending appeal as provided in subsection 3147. For example, if an inmate refuses to work and is placed in another privilege group, [i.e. Privilege Group C, Section 3044(f)] the inmate is no longer qualified to receive a package. This amendment is necessary to ensure that inmates who are eligible to receive packages receive those packages in a timely manner. Additionally, existing reference subsection 3147(a)(6) is an incorrect reference because it refers to mail being sent out of the institution by an inmate. The reference is corrected to read subsection 3147(a)(5) which refers to packages that are addressed to an inmate.

Additionally, if the package is in excess of the 30-pound limit or is damaged, the package shall be returned to the vendor at the vendor's expense. This will ensure that vendors ship packages that meet the Department's 30-pound weight limit for inmate packages. It also makes the vendor responsible for a package that is damaged in route to the institution/facility. It will be the vendor's responsibility to file any necessary claims with the common carrier.

**Subsections (d)(2) through (g) are unchanged.**

**The Note Section in Section 3138 is amended to add the year "1974" to the case *Procunier v. Martinez*, and to correct the spelling of the defendant's name from Wolffish to Wolfish, and add the year "1979" to the case as it was inadvertently left off.**

**Section 3161 is amended** to include legal materials/documents, along with law books and papers as part of their authorized property included in the inmate's quarters/living area. Additionally, inmates may possess up to one cubic foot of legal materials/documents related to their active cases in excess of the six cubic feet. This provides for a total of seven cubic feet of allowable space when a portion of that space is required for legal material. This amendment allows a mechanism for the disposition of the materials if they do not meet the criteria set forth in this section. The Department recognizes that inmates must have the ability to pursue legal remedies and appeal court decisions in a timely manner. This provision is necessary to ensure that legal materials/documents that are necessary for the preparation of an inmate's active case are stored and made available to the inmate so that the inmate may adequately prepare for any active legal case.

Inmates may request the institution/facility store excess legal material/documents related to their active case(s) when such materials/documents exceed the one cubic foot additional allowance. This is necessary because institutions/facilities lack sufficient storage or warehouse space to properly store excessive amounts of legal material. Inmate-owned law books in excess of the additional allowance shall not be stored by the institution/facility due to their large size and due to the fact that inmates may access and utilize law books at the institution's law library.

**Subsection 3190(a) is amended** to permit inmates to possess in their quarters/living area, state-issued property and authorized personal property based upon privileges in Section 3044, and/or assigned security level and/or institution mission, and subject to disciplinary provisions in Sections 3314 and 3315. Language is deleted that allowed individual institutions to establish a list of personal property items and the maximum amount of such items an inmate may possess. This is necessary to establish statewide regulations standardizing inmate property practices throughout all of the institutions/facilities. This action will limit the amount, and restrict the type, of personal property an inmate is allowed to possess. Privileges, including packages, will be based upon privileges set forth in Section 3044, i.e., Privilege Groups A and B may receive four personal property packages per year; however, Privilege Group C will not be allowed personal property packages.

This language allows for personal property to be based upon the assigned security level and/or the mission of the institution. Level 4 inmates (maximum security) may not be allowed the same type of property items as those in a Level 1 institution/facility (minimum security). Level 4 inmates are a higher security threat than inmates in a Level 1 facility and this regulation aids in the safety and security of the prisons and the public by controlling Level 4 inmate property and by providing an incentive and encouragement to Level 1 inmates. Additionally, the possession of state-issued and personal property is also subject to disciplinary provisions set forth in Sections 3314 and 3315, i.e., inmates who are found guilty of a serious rule violation may have their privileges suspended and may be assessed by placing the inmate into a different privilege group with different allowable property.

**Subsection 3190(b) is amended** to add the language “except as specifically allowed in these regulations to existing language that limits state-issued and allowable inmate personal property to six cubic feet. Specific exceptions include, for example, legal material/documents that are part of an inmate’s active case or medical appliances. This is necessary due to the lack of storage space and constrictive conditions in the inmates’ quarters/living area. Also, restricting the amount of property will aid staff in detecting contraband during a cell search and will reduce the possibility of fire hazards in the inmate’s cell. Inmate cells, quarters/livings areas are typically no larger than 6’ x 10’ in size. Most cells at the institutions/facilities are not single-celled, but are occupied by two inmates, thereby allowing even less space, and creating an even greater fire hazard if the 6 cubic feet limit is not adhered to.

**Existing secondary sentence of subsection 3190(b) is relocated to new subsection 3190(i) and amended.**

**Subsections 3190(c) amended** to delete language regarding providing other institutions with a current list of allowable inmate personal property when the inmate transfers. These proposed regulations standardize the intake of inmate property through a statewide vendor process; therefore, making it unnecessary to provide other institutions with two copies of the institution’s current list of allowable inmate personal property since property would be standardized statewide after the promulgation of these regulations. During the transfer of an inmate to another institution, staff shall be required to inventory the inmate’s property and ensure the proper disposition of any property not allowed at the receiving institution as a result of privilege group, and/or security level, and/or institution mission changes.

**Subsection 3190(d) is adopted** to allow inmates to acquire authorized personal property packages based upon their privilege group, pursuant to Section 3044. Personal property packages include various items, which can be purchased by inmate correspondents and sent to the inmate via departmentally-approved vendors, or items purchased by inmates from vendor catalogs and shipped to the inmate via departmentally-approved vendors. These packages, formerly referred to as “quarterly packages,” shall be shipped to the inmate’s institution/facility by the departmentally-approved vendor in a factory sealed container.

Inmate correspondents will be able to choose from a list of vendors, and also select items from a voluminous list of products aimed at satisfying many of the inmate’s wants and needs, and providing that “personal touch” feeling that many inmate’s desire during their incarceration.

These provisions benefit the inmate by allowing them, pursuant to their privilege group, to now initiate an order for items included in a package without depending on their correspondents or other entities to send them a 30-pound package. Additionally, this allows inmates without any correspondents, or who in the past have not received packages from family and/or friends, to now order a personal property package from departmentally-approved vendors.



**Subsection 3190(e) is adopted** to allow inmates to possess allowable food and personal care/hygiene items in their quarters/living areas based upon their privilege group and subject to disciplinary provisions set forth by the Department. The Department has determined that specific allowable personal property should not compromise the safety and security of the institution nor aid an inmate during an escape. These regulations are necessary to enable departmental staff to quickly detect contraband during a cell search and aid staff during an emergency response. The total volume of canteen merchandise retained in possession of an inmate shall be pursuant to currently existing language in Section 3094 and shall not exceed the six cubic feet limitations. This is necessary to ensure that inmates only keep enough allowable food and personal care/hygiene items for their own personal consumption and not use extra items in trade or to gain favoritism with other inmates, or sell extra items to other inmates in an attempt to make money. Inmates are not allowed to sell or trade food or personal care items with other inmates. Additionally, inmates shall be required to provide their purchase receipt upon demand to verify purchases until items are expended. This is necessary to prove items in the inmates cell/living quarters are actually the inmate's own personal property and have been either purchased at the canteen, purchased by the inmate through the special purchase process or purchased by the inmate or their correspondent and sent in through the approved vendor. It will also aid an inmate when their property is damaged, destroyed or stolen and the inmate files a claim to replace the items.

**Subsection 3190(f) is adopted** to require inmates to use clear personal care/hygiene items encased in clear containers or tubing when the products become available for purchase. This exemption shall only be authorized by the institution's Health Care Manager or Chief Medical Officer, and only when it is deemed medically necessary by a physician. Such exemptions shall not exceed a period of one (1) year. If the condition warranting exemption persists, the inmate shall submit another exemption request. This is necessary to provide for inmates who have skin or other medical problems to use medicated or other products that a physician deems necessary to aid the condition. This action is necessary to ensure that inmates who have been diagnosed with conditions that require medications or other products that are not available in clear tubing or bottles are able to obtain them if authorized to do so.

**Subsection 3190(g) is adopted** to allow inmates to possess state-issued clothing and authorized personal clothing items subject to Section 3190(a). The Department issues different types of outerwear clothing to inmates such as jeans and chambray shirts, or white or orange jumpsuits for both male and female inmates, or muumuus for female inmates. Inmates shall be allowed to wear these particular items only as issued by the Department. This is necessary to ensure that outerwear clothing worn by inmates is easily identifiable as inmate clothing. This will aid staff while performing cell searches or in the case of escape or attempted escape. Other authorized personal clothing items such as garments worn under the clothing, or raingear, hats, caps, or tennis shoes may be purchased by inmate correspondents or by inmates from, and sent by departmentally-approved vendors. The Department shall allow such items in an attempt to afford inmates some greater sense of "personal touch" while incarcerated.

**New subsection 3190(h) is relocated from existing Subsection 3092(a) and is renumbered and amended** to delete language that states facilities shall establish procedures for inmate purchase of personal property items not stocked in the canteen. Inmate purchases in this section are now referred to as special purchases. This name change is necessary to differentiate personal property packages from special purchases. Inmates shall be allowed special purchases of authorized personal property items from departmentally approved vendors. Inmates may acquire these special purchase items in two ways, either by purchasing the items themselves through departmentally approved vendors or by receiving the items from outside entities, otherwise known as correspondents. Special purchases requiring prior approval from designated staff are specific to an inmate's health (healthcare appliances), education (correspondence courses), religious (medallions, etc.) or handicraft materials. Special purchase orders

can be placed for such items as legal material, if unavailable in the canteen, entertainment appliances and musical instruments, subject to qualifying privilege group and/or security level/institution mission, or books and subscriptions to periodicals, subject to the requirements in Section 3006.

**New subsection 3190(i) is relocated from existing secondary sentence in subsection 3190(b) and amended** to allow inmates to possess appliances and one musical instrument. This is necessary to delete outdated language such as a recorded tap/disk playback unit and to generalize the text as to allow subsection 3190(i)(1) through (i)(5) to specify what inmates in specific privilege groups may possess.

**New subsection 3190(i)(1) is adopted** to specify the number of appliances that Privilege Group A and B inmates are authorized to possess. Privilege Group A and B inmates are inmates who work or participate in educational/vocational education classes and have earned the privilege to possess the specific personal property items in this subsection. Electrical appliances include such items as typewriters, fans, or calculators, and for female inmates it includes electric curlers, or curling irons. Entertainment appliances include items such as a televisions, radios, or CD players. Privilege Groups A and B inmates are allowed to possess up to two approved appliances or one musical instrument with case, not to exceed 46" x 24" x 12", as one of their two appliances. Being allowed to possess these appliances and/or musical instruments is an incentive to all inmates (including those who have been involved in prison violence, or are new to the Department and have yet to be classified) to continue to work and/or participate in educational/vocational educational classes. It is necessary to limit electrical appliances because it helps reduce the power needs of the institutions and specifically, reduces the potential of power shortages and strains on the infrastructure of the institutions/facilities. The appliances and/or musical instrument shall not exceed the six cubic foot maximum limitation for inmate property. This is necessary due to the lack of space in the inmate's quarters/living area because of safety issues and the fire hazard excess property may create.

**New subsection 3190(i)(2) is adopted** to state that Privilege Group C inmates may not possess entertainment appliances and/or a musical instrument. This is necessary because Privilege Group C inmates have not earned or have lost the privilege to possess entertainment appliances due to their voluntary decision not to participate in educational/vocational educational classes or their refusal to work. Inmates placed on Privilege Group C pursuant to a classification committee action are required to dispose of the entertainment appliance(s) and/or musical instrument in accordance with subsection 3191(c). Inmates shall be allowed to keep non-entertainment appliances already in their possession, but will not be allowed to purchase new appliances of any type until they are placed in Privilege Group A or B. This regulation provides incentive for inmates to participate in classes or to work at the institution/facility.

**New subsection 3190(i)(3) is relocated from existing subsection 3044(g)(4)(G) and is amended** to state that inmates who are assigned to Security Housing Unit (SHU) or Psychiatric Services Unit (PSU) may be eligible to acquire one television or one radio or television/radio combination. Reference to special canteen purchases was deleted to accurately reflect what these purchases are. Appliance purchases are considered a special purchase not a special canteen purchase. The Department realizes the benefits from the ability to possess a television or a radio has on inmates assigned to SHU or PSU. It provides them with the ability to connect with the outside world. Also, televisions are utilized by inmates who participate in educational programs. However, inmates in SHU or PSU may pose a danger to themselves, staff, or other inmates, and therefore their possession of a musical instrument shall be allowed only after the inmate demonstrates that they no longer pose any security threat or concern for the institution, other inmates, and themselves. Additionally, those inmates assigned to Privilege Group D may not possess a musical instrument.

**New subsection 3190(i)(4) is adopted** to state that Privilege Group U inmates may not possess any appliances or musical instruments. Privilege Group U inmates are temporarily housed in reception centers until they are processed and permanently housed at an institution/facility. Their privileges are limited due to their temporary housing and, pursuant to 3044(h). This is necessary due to the lack of space and the potential for multiple placements within the institution until the inmate is permanently housed.

**New subsection 3190(i)(5) is adopted** to state that inmates housed at conservation camps shall not possess a television or television/radio combination. This is necessary due to the fact that most inmates assigned to conservation camps typically live in a dorm-type setting and may live temporarily in tents for several months out of the year. Inmates are assigned to firefighting duties or other outdoor emergency duties that would necessitate their constant movement. Conservation Camp inmates, however, are alternatively provided with recreational rooms, including TV rooms, game rooms, etc. In addition, conservation camps are located in remote areas of the State and have very limited storage space for inmate personal property. Limited staff is assigned to supervise inmates who work full time on various projects, such as, fighting fires, clean-up crews, cooking, and various other jobs. Additionally, due to departmental staffing limitations, there is no capacity to assign an official property officer to work in conservation camps in order to maintain control of inmate personal property. Furthermore, electricity is not readily available at all camp locations.

**New subsection 3190(j) is adopted** to specify that all appliances shall be sealed by staff. All appliances, when received at the institution/facility, shall be sealed by staff utilizing methods such as hot-melting glue onto screws, latches or any other exterior pieces of the appliance that may be used to access the interior of the appliance. This is necessary to enable staff to prevent tampering with the appliances or the concealment of contraband within the appliance. Removal of the hot-melt is an indication that the appliance may have been tampered with.

**New subsection 3190(k) is adopted** to specify that inmates who break or tamper with the seal of an appliance may be subject to disciplinary action and confiscation of the item. Section 3064 states that inmates may not alter their quarters or equipment without specific authorization to do so. Existing Sections 3314, 3315 and 3323 all address misuse and alteration of personal property of varying degrees with the end result being various forms of discipline. Appliances, such as televisions, radios, or cassette players typically contain space inside the outer casing that could potentially conceal contraband. Items such as drugs, and weapons could easily be hidden inside the appliance. The seal of an appliance is not to be broken or tampered with for any reason. Removal of the hot-melt is a reasonable indication that the appliance may have been tampered with. This is necessary for the safety and security of the institution ensuring that appliances are not used to conceal contraband or the inner components are not used as weapons or tattoo equipment. This provides the inmate with an incentive to leave the seal intact.

**New subsection 3190(l) is adopted** to require the purchase of clear-case appliances from approved vendors when ordering new or replacement appliances. Clear-case appliances are being required in the interest of safety and security of the institution/facility, and in order to curtail the introduction or concealment of contraband. This is necessary to allow staff to visibly search appliances without having to open and inspect the appliances, thereby reducing the possibility of damage to the appliance during the search process. This will reduce the Department's liability and reduce inmate personal property claims by allowing a more efficient method of searching personal property. Clear-case appliances are see-through and staff needn't take the appliances apart to search, thereby reducing accidental breakage and/or damage.

**New subsection 3190(m) is adopted** to permit inmate correspondents such as family members, friends, or other third party correspondents to purchase appliances for inmates, from an approved vendor, pursuant to section 3044. These appliances include health care and entertainment appliances, and/or musical instruments. Approved vendors will provide the institution with current vendor catalogs to be distributed at the institutions and will be available at such places as the inmate libraries and in visiting rooms. Inmate correspondents will have access to a list of approved vendors through the institutions or through the inmates which will allow the correspondents to contact the approved vendors via telephone, a mailing address or internet access. A variety of products approved by the Department will be available to purchase and the vendor will then send the products directly to the institutions for the individual inmate. A wide variety of products will enable correspondents to choose those items desired by the inmates and will provide some sense of “personal touch” to the inmate.

**New subsection 3190(n) is adopted** to specify that inmates, who participate in institution academic or vocational educational material shall be allowed to possess in their quarters/living area, state provided textbooks/materials necessary to complete their education requirements, in addition to the six cubic foot limitation. This regulation is necessary to complement inmate participation in academic and educational programs, and ensures that inmates do not receive personal property items that may pose a threat to the safety and security of the institution, staff or inmates. This regulation states that if the textbooks are not returned to the State in serviceable condition, a replacement fee may be charged. The supervisor of correctional education programs will determine the replacement fee. This is necessary to ensure that state property is utilized correctly and treated with respect. Due to the current budget crisis in the State, the Department cannot afford to continually replace textbooks/materials that are not in serviceable condition.

**New subsection 3190(o) is adopted** to allow inmates to acquire and possess correspondence course materials, including textbooks in their quarters/living area as approved by the supervisor of correctional education programs and designed custody staff, pursuant to other limitations in Section 3190. This regulation further specifies that correspondence courses requiring tools, construction kits, or other materials that may pose a threat to the institution’s security or the safety of persons shall not be allowed. This is necessary to ensure that inmates are allowed to participate in educational programs that will help in their rehabilitation and transition back into society providing the materials are safe and authorized by the institution.

**Subsection 3190(p) relocated from existing subsection 3092(b) and is amended** to include personal property packages as part of the purchases that will include normal taxes and a 10 percent service charge based upon the purchase price. This is necessary due to the fact that inmates are now able to use their inmate trust funds to purchase personal property packages. The basis for the 10 percent service charge is that it covers the institutions costs in processing inmate-generated purchases whether they are special purchases or personal property package orders. Additionally, exceptions to the 10 percent service charge now include religious items. Existing language was changed from “medical appliances” to “health care appliances.” This is necessary to change old terminology “medical” into new, commonly referred to terminology, “health care.” The new terminology encompasses a broader scope of appliances such as orthotic-type shoes, knee braces, etc., as opposed to the old language, which referred to items such as eyeglasses, prosthetics, etc.

**New subsection 3190(q) is adopted** to restrict inmates from possessing any membership cards, identification cards, or service-type cards other than those issued by the Department. This is necessary to reduce or eliminate the possibility of identification card tampering to prevent escape. Additionally, it

curtails an inmate's ability to purchase items via the telephone or other means or placing long distance telephone calls circumventing the Department's security measures.

**New subsection 3190(r) is adopted** to ensure that when an inmate is Out-to-Medical, Out-to-Court, or placed in segregated housing, a Correctional Treatment Center, or an outpatient Housing Unit their allowable property shall be inventoried, documented, and stored until the inmate returns. An inmate may be temporarily placed in one of the above-mentioned locations for a time period of a few hours to an extended period of time dependent upon the individual's situation. Due to the cost involved in disposing of inmate property, both for the State and for the inmate, it is necessary to provide the inmate with temporary storage for their allowable property. Storage is provided on a temporary basis and based upon space availability at the institution/facility.

**New subsection 3190(s) is adopted** to ensure that Privilege Group A or B inmates placed in administrative segregation (AD SEG) shall have their property inventoried and stored pending the outcome of the AD SEG placement. Due to the cost involved in disposing of inmate property, both for the State and for the inmate, it is necessary to provide the inmate with temporary storage for their allowable property. If an inmate is released back into the general population and maintains their Privilege Group A or B assignment, all their property shall be returned. If the inmate is placed in a Segregated Housing Unit (SHU), their privilege group status changes to Privilege Group D. Privilege Group D inmates are not allowed the same property as those inmates in the general population, therefore requiring the inmate to dispose of the property in accordance with Section 3191(c). This is necessary to encourage inmates to remain discipline free. Additionally, an inmate may be assigned to a SHU term lasting numerous years, and it would not be feasible for the Department to store their unallowable property due to lack of storage space at the institutions.

**The Note Section in Section 3190 is amended to italicize and properly capitalize the court citation regarding *In re Alcala*.**

**The Heading of Section 3191 is amended** to better describe that this section includes new language pertaining to registering all non-expendable inmate personal property on the inmate's property and language regarding the disposition of inmate personal property.

**Subsection 3191(a) is amended** to change non-expendable to registerable when describing inmate personal property. All designated inmate property items that are identified as registerable shall be registered under the inmate's name and number in the institution's inmate property records. Existing language regarding an institution's approved inmate property list is deleted due to the statewide standardization of inmate property. Institutions will no longer have individual property lists, but will be dependent upon a statewide property inventory list, as provided by the Department. Institutions will, however, have the ability to provide individual canteen items that are purchased locally or that are location sensitive items, such as raingear in the institutions located in the northwest part of the State or straw-type hats for inmates in the southern desert locations. Additionally, this will reduce an inmate's ability to convey, barter or trade personal property and to be able to verify inmate claims as to lost or damaged property. Additionally, it allows staff to know what property an inmate may take with him/her upon transfer or release.

**Subsection 3191(b) is amended** to change non-expendable to registerable when describing inmate personal property. Also, the word non-expendable is deleted all together in the second sentence. All designated inmate property items that are identified as registerable shall be registered under the inmate's name and number in the institution's inmate property records.



**Subsection 3191(c)** is amended to provide several methods of disposal of inmate personal property not meeting the criteria established in Section 3190. This is necessary to reduce the Department's liability for having to maintain unauthorized inmate personal property. Additionally, amended language regarding insufficient funds has been added. It is necessary for staff to document that fact and determine the method of disposition for inmate property when the inmate has no means by which to pay for certain dispositions of property.

**Subsection 3191(c)(1)** is amended to state that unallowable personal property is to be mailed to an address provided by the inmate to an individual willing to accept the property via U.S. Postal Service (USPS) or common carrier at the inmate's expense. This is necessary due to the fact that property that was sent to the inmate's home has the potential of being refused by family members. Also, the use of the word "home" is not the correct term. Inmates often send property to correspondents other than family members or to an address other than their home. Language was added to state that this option is not available for inmates with insufficient trust account funds. Due to the ongoing budget crisis, the Department cannot afford to mail property items for inmates with insufficient funds. These inmates will be required to dispose of their property pursuant to other methods specified in Section 3191.

**New subsection 3191(c)(2)** is adopted to state that inmates may return the item to the sender via USPS or common carrier at the inmate's expense. This is necessary because Privilege Group A or B inmates may be in the process of having personal property items sent by an approved vendor and then are placed in Privilege Group C due to either their refusal to participate in work or academic programs. Privilege Group C inmates are not allowed personal property packages. Since it is the inmate's choice not to work or participate in academic programs, it is not the fault of the institution or the vendor; therefore, it is the inmate who must incur the expense of returning the item to the sender.

**Subsection 3191(c)(3) and (4)** is amended to correct language structure and provide clarity. This is also necessary to provide the individual institution/facility with the ability to designate a charitable organization to which items may be donated.

**New subsection 3191(c)(5)** is adopted to include an additional option for disposal of inmate personal property. The inmate may choose to render the personal property item useless and dispose of it rather than incur mail or carrier costs. If an inmate has not made a selection of the property's disposition or an inmate has insufficient funds or is unwilling to donate the item to a charitable organization, the staff shall determine the method of disposition.

**New subsection 3191(d)** is adopted to ensure that inmates shall not send personal property to any state agency or agent of the state. This is necessary due to the fact that state agencies or any individual who is an agent of the state cannot receive any item of value in accordance with Sections 3401, 3409 and 3413. Inmates, who fail to comply, may have their property confiscated and/or disposed of, and the action may result in disciplinary action.

**Section 3192** is amended by adding the word facilities to institutions, and by deleting the text referring to institutional procedures. These regulations are to be implemented statewide. Additionally, these regulations do not allow exceptions to be authorized in the case of an inmate. This is necessary in order to prohibit inmates from either circumventing the Department's restrictions regarding personal property or being pressured, or intimidated into conveying his/her personal property to another inmate. Additionally, this will prohibit inmates from selling or conveying their personal property prior to transfer or parole, only to find out that the transfer or parole has been cancelled or postponed. This regulation also specifies that such rule violations may result in disciplinary action, including, but not limited to the disposal of the property, temporary confiscation, and/or in the loss of the privilege to

possess authorized personal property items. This change is necessary to discourage inmates from possessing any non-authorized property, and this also encourages inmates to abide by these regulations so that they remain disciplinary free, thus retaining their privilege group status.

**Subsection 3193(a) is unchanged.**

**Subsection 3193(b) is amended** to ensure that the Department shall accept liability for the loss or destruction of inmate personal property when it is established that the loss or destruction is the result of an employee's action. In the text, the word "negligence" is changed to "action." This change is warranted because the handling of inmate property by departmental employees is necessary and there may be instances when as a result of an employee action, inmate property may be destroyed or lost with no negligence on the part of the employee. The proper handling, inventorying, storage, or transporting of inmate property by staff may also result in inadvertent loss or damage of property with no negligence or malice intent involved. If in the event that there is loss or destruction of property, inmates shall utilize the appeal process, if the inmate is unable to resolve a personal property claim pursuant to Section 3084.1. However, upon the Department's acceptance of liability, the Department shall provide similar items of equal or greater value to the inmate when such items are available via donated property items consistent with Sections 3084.7(e) and 3191(c). Furthermore, if the donated items are not available, monetary compensation to the inmate shall be provided but shall not exceed either the dollar value assigned to the item(s) at the time the inmate received authorization to possess the property; the cost of the item, verified by receipt; or the replacement value for the item or similar item determined by the Department. Due to the name change of the State Board of Control to the Victim Compensation and Government Claims Board, it is necessary that the language in the Title 15 reflect this new name change. Staff recommendations to the Board will be made regarding monetary reimbursement only.

**New subsection 3193(c) is adopted** to ensure that the Department shall not assume responsibility for property abandoned by an escapee until such time as the escape is discovered and the property is inventoried. Once the escape is discovered, staff shall conduct an inventory of the property and store the property. The final disposition of the property shall be pursuant to Penal Code 5062 and 5063. This regulation is necessary to ensure that if an inmate attempts an escape or does succeed in escaping, that the Department is not responsible for abandoned property and does not bear any financial responsibility for lost or destroyed property prior to their being made aware of the escape. The Department shall not be held responsible for damage or loss when the personal property is not in the control of the Department.

**The Note Section has been relocated to the end of the section and amended to include Penal Code Sections 5062 and 5063 to the reference site.**

**New subsection 3194(a) is adopted** to ensure inmates or parolees requiring extradition transport from any state or territory of the United States are personally responsible for the disposition of their personal property and to arrange with the holding agency for the disposal or storage or mailing of their property prior to being transported. This regulation is necessary to place the responsibility on the inmate to take care of his/her property and to reduce the responsibility for the damage of inmate personal property when that property has not been delivered into the custody of the Department. This regulation further states that at no time shall inmate personal property be checked onto airplanes or transported in the aircraft's baggage compartment, except for wheelchairs or other health care appliances.

**New subsection 3194(b) is adopted** to ensure that inmates being extradited to the custody of the Department shall not retain any property on their person except prescribed eyeglasses or health care appliances. A 10" x 12" clasp envelope shall be utilized for transporting authorized property only, and

shall include but not be limited to items such as prescription medication, jewelry, wallet, watch, family pictures, or printed material. The state's agent shall inventory, record, and secure all authorized property and secure in the agent's carry-on baggage or secured compartment in a transportation vehicle. This regulation authorizes an inmate to wear his/her own clothing and shoes, if deemed appropriate for transport by the state agent. This is necessary due to limited space during the transportation of an inmate.

**New subsection 3194(c)(1) through (3) is adopted** to allow inmates who are being extradited or transferred from the department to other jurisdictions, states, or territories of the United States to retain all or a portion of their personal property as determined by the transporting extradition agent. In cases where the transportation of personal property is not permitted, inmates shall dispose of the property pursuant to Section 3191(c)(3) through (5) or be provided the opportunity to select from the following options: (1) if permanently transferring to the custody of another agency, send all property to an individual willing to accept the property via USPS or common carrier at the inmate's expense; (2) if indigent and permanently transferring to the custody of another agency, send all property to an individual willing to accept the property via USPS or common carrier at the Department; or, (3) if temporarily transferring out-to-court or other temporary transfers out-of-state, store property at the institution/facility pending their return to custody in California, or paroled, or discharged. The disposition of unclaimed property shall be in accordance with Penal Code Section 5062, 5063, and 5064. This regulation is necessary to ensure the proper disposition of inmate property and to provide the inmate with options during extradition or transfer.

**New Section 3195 is adopted** to provide for the receipt of release clothing. This will allow each inmate to receive release clothing thereby defraying the cost for the replacement of state clothing. This regulation also stipulates that release clothing may be sent via U.S. Postal Service or common carrier no earlier than 30 days prior to the inmate's scheduled parole or discharge date. This regulation further limits an inmate's release clothing package to one set of clothing. Additionally, departmental staff shall retain the inmate's release clothing package in a secure location until the date of parole or release of the inmate. This regulation is necessary to reduce or eliminate the possibility of the inmate using their release clothing as escape paraphernalia or using any piece of clothing as a weapon against staff or other inmates. This has been an existing practice at most institutions/facilities. Additionally, neither the inmate nor the Department incurs any additional cost for state clothing.

**ALTERNATIVE CONSIDERED:**

The Department must determine that no alternative considered would be more effective in carrying out the purpose of this action or would be as effective and less burdensome to affected persons.